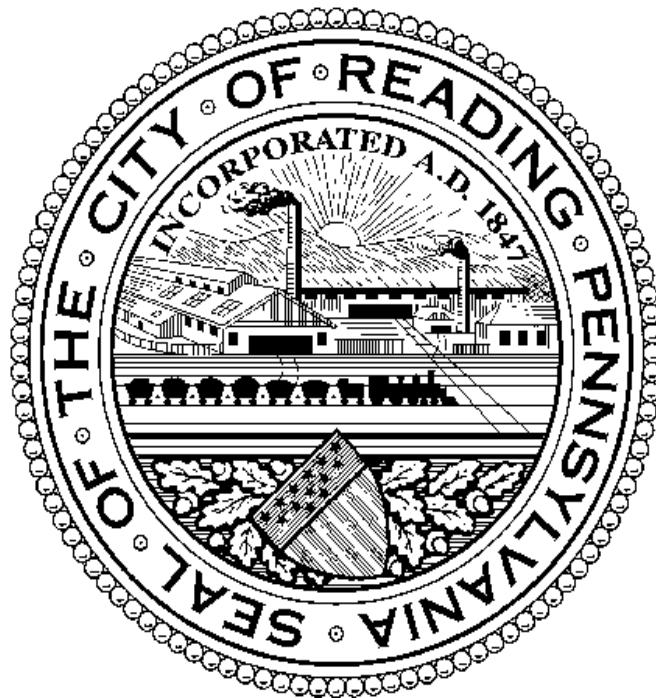


# City of Reading Code of Ethics

Bill No. 16-97



## TABLE OF CONTENTS

SECTION 1. Declaration of Policy.....	Page 1
SECTION 2. Board of Ethics.....	Page 1
A. Powers and duties.....	Page 1
B. Prohibitions.....	Page 2
C. Meetings.....	Page 2
SECTION 3. Principles of Public Service Ethics.....	Page 3
A. Public Office as a Public Trust.....	Page 3
B. Independent Objective Judgment.....	Page 3
C. Accountability.....	Page 3
D. Democratic Leadership.....	Page 3
E. Respectability and Fitness for Public Office.....	Page 3
SECTION 4. Definitions.....	Page 4
SECTION 5. Conflict of Interest.....	Page 5
SECTION 6. Statement of Financial Interest.....	Page 5
SECTION 7. Disclosure of Confidential Information.....	Page 5
SECTION 8. Prohibited Behaviors.....	Page 6
A. Conflicts of Interest.....	Page 6
B. Solicitation/Acceptance of Gifts.....	Page 6
C. Nepotism.....	Page 7
D. Whistle Blowing.....	Page 7
E. Use of City Property and Personnel.....	Page 7
F. Political Activities.....	Page 8
SECTION 9. Penalties.....	Page 8
SECTION 10. Advisory Opinions.....	Page 9
SECTION 11. Complaint and Investigation Procedure.....	Page 9
A. Who May File.....	Page 9
B. How to File.....	Page 9
C. How to Determine if an Act is a Violation.....	Page 10
D. Preliminary Inquiry.....	Page 10
E. Continuing Inquiry.....	Page 10
F. Full Investigation.....	Page 10
G. Findings Report, Evidentiary Hearing and Board Decision.....	Page 10
H. Open Hearing.....	Page 11
I. Effect of Order.....	Page 11
J. Protection of Complainant.....	Page 11
SECTION 12. Confidentiality of Board Information.....	Page 12
SECTION 13. Wrongful Use of Board of Ethics.....	Page 12

## **SECTION 1. Declaration of Policy**

The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government.

In recognition of these goals, there is hereby established a Code of Ethics to be administered by the Board of Ethics. The purpose of this Code is to establish ethical standards of conduct for all officials and employees of the City of Reading, its agencies and authorities, whether elected or appointed, paid or unpaid, by providing guidelines to clarify actions or inactions which are incompatible with the best interests of the City and by directing disclosure of private, financial or other interests in matters affecting the City. The provisions and purpose of this Code and such rules, regulations, opinions and disciplinary decisions as may be promulgated by the Board Pursuant hereto, and under provisions of Article XII of the Charter, are hereby declared to be in the best interest of the City.

## **SECTION 2. Board of Ethics**

Reference is made to Section 1201 C of the Charter of the City of Reading.

- A. **Powers and duties:** The powers and the duties of the Board of Ethics may be summarized as follows:
1. Give advice as to the application of the ethics provisions of the Charter of the City of Reading and this Code of Ethics.
  2. Receive and dispose of complaints of violations of the Charter and Code of Ethics.
  3. Conduct investigations, hold hearings, subpoena witnesses and compel their attendance, administer oaths, take testimony, require evidence on any matter under investigation or any suggestions before the Board, make findings of fact and issue orders.
  4. Conduct educational programs to promote the ethical conduct of public officials, City employees and individuals and groups doing business with the City.

5. Adopt rules and regulations to administer, implement, enforce and interpret the Code of Ethics.
6. Annually review the statements of financial interest filed pursuant to Section 6.

B. **Prohibitions.** Due to their special position, Board members have a higher duty than other public officials to avoid conflicts of interest. Respect for the Code can be maintained only if members are models of ethical behavior. The prohibitions in this section are in addition to the duties, responsibilities or obligations imposed upon the Board members as public officials under other provisions of the Code.

1. No member may hold or campaign for any other public office.
2. No member may hold office in any political party or political organization or political committee.
3. No member may hold a position of employment or appointment with any municipal government or any board or commission formed by the City of Reading.
4. No member may actively participate in or contribute to any political campaign in the City of Reading for a candidate running for or from the office of the Mayor, President of Council, Council Member, or Auditor. This does not abridge the right of a member to vote or attend a debate, speech or similar event that is held primarily for the purpose of communicating a candidate's platform or position on issues of public concern.
5. No member shall receive compensation but shall be reimbursed by the City for documented expenses actually incurred.

C. **Meetings.** The Board of Ethics shall meet at the call of the Chairperson or at the call of a majority of its members. An affirmative vote of a majority of the entire Board shall be necessary to take any action. The Board of Ethics shall annually elect its own Chairperson and Vice Chairperson and shall develop rules of procedure. The Board of Ethics shall appoint a secretary who need not be a member of the Board, a solicitor and such other staff as may be deemed necessary.

### SECTION 3. Principles of Public Service Ethics

These principles are fundamental driving forces for officials and employees of the City of Reading in everything they do.

These principles are: <sup>1</sup>

- A. **Public Office as a Public Trust.** Public servants should treat their office as a public trust, only using the powers and resources of public office to advance public interests, and not to attain personal benefits or pursue any other private interest incompatible with the public good.
- B. **Independent Objective Judgment.** Public servants should employ independent objective judgment in performing their duties, deciding all matters on the merits, free from avoidable conflicts of interest and both real and apparent improper influences.
- C. **Accountability.** Public servants should assure that government is conducted openly, efficiently, equitably and honorably in a manner that permits the citizenry to make informed judgments and hold government officials accountable.
- D. **Democratic Leadership.** Public servants should honor and respect the principles and spirit of representative democracy and set a positive example of good citizenship by scrupulously observing the letter and spirit of laws and rules.
- E. **Respectability and Fitness for Public Office.** Public servants should safeguard public confidence in the integrity of government by being honest, fair, caring and respectful and by avoiding conduct creating the appearance of impropriety or which is otherwise unbecoming a public official.

---

<sup>1</sup> Josephson Institute for the Advancement of Ethics, *Preserving the Public Trust*, 1990.

## SECTION 4. Definitions

For the purposes of this Code, the following terms shall have the following definitions. All other words and phrases shall have their normal meaning unless further defined herein.

- A. **Appearance of Impropriety.** The perception that wrong-doing or misconduct may have occurred. When a reasonable person could reasonably believe that improper actions have or are taking place.
- B. **Board.** The Board of Ethics of the City of Reading.
- C. **Candidate.** Any individual who seeks nomination or election to public office normally decided by vote of the electorate, whether such individual is elected by the electorate or is appointed.
- D. **Conflict of Interest.** A situation or potential situations in which a public official or employee uses or may use his/her office or employment for the private gain for himself/herself, a member of his/her immediate family or a business of any type with which he/she or a member of his/her immediate family has a material interest.
- E. **Employee.** Any individual receiving salary or wages from the City of Reading.
- F. **Material Interest.** Direct or indirect ownership of more than five percent (5%) of the total assets or capital stock of any business entity.
- G. **Official.** Any elected or appointed paid or unpaid member of the government of the City of Reading.
- H. **Political Activity.** Any activity which promotes the candidacy of any individual seeking elective office, or the advocacy of any political party or position, including but not limited to the circulation of election petitions and the sale or distribution of fund raising items or tickets.

## **SECTION 5. Conflict of Interest**

Each official or employee of the City must be constantly on guard against conflicts of interest. No official or employee should be involved in any activity which might be seen as conflicting with his/her responsibilities to the City. The people of Reading have a right to expect that their representatives act with independence and fairness towards all groups and not favor a few individuals or themselves.

Should an official or employee find him/herself in any direct or indirect financial interest with any person or other entity proposing to contract with the City that individual must fully disclose said interest and refrain from voting upon or otherwise participating in the transaction or the making of such decision, contract or sale. Violation of this section shall render the contract voidable by the decision-making body or upon review and authority of the Board of Ethics.

## **SECTION 6. Statement of Financial Interests**

Any official or employee of the City or authorities or boards with decision-making authority shall file with the City Clerk a Statement of Financial Interests for the preceding calendar year by May 1 of each year. The Board of Ethics shall define those positions whose occupants must file financial statements. Any individual appointed to such a position after May 1 has fifteen working days to file the Statement of Financial Interest. All statements must be made available for public inspection and copying at an amount not to exceed actual costs.

## **SECTION 7. Disclosure of Confidential Information**

City employees and officials often have access to important non-public information regarding the property, operations, policies or affairs of the City. Such information may concern, among other things, employees and officials, real estate transactions, expansion of public facilities, or other City projects. The policy does prohibit using or furnishing information that would place employees or recipients in an advantageous position over the general public and thereby constitute a violation of public trust. Anyone who is privy to confidential information may not disclose that information to any private citizen and should disclose it to other public employees only if appropriate.

## **SECTION 8. Prohibited Behaviors**

### **A. Conflicts of Interest**

1. Employees and officials of the City may not bid on or have a material interest in:
  - a. the furnishing of any materials, supplies or services to be used in the work of the City.
  - b. Contracts for the construction of any City facility.
  - c. Sale of any property to the City or the purchase of any property from the city unless said property is offered to the general public at auction or by competitive bid.
2. Outside Employment. City employees may accept, have, or hold any employment or contractual relationship with any individual, partnership, association, corporation (profit or non-profit), utility or other organization, whether public or private, but only if the employment or contractual relationship does not constitute a conflict of interest or impair their efficiency.

### **B. Solicitation/Acceptance of Gifts, Etc.**

No official or employee shall accept gifts and other things of value in return for a favorable decision or vote (City Charter, Section 1201 (a)). In all cases, gifts received must be publicly recorded and submitted to the City Clerk specifying the date received, the name and address of the donor, and the value of the gift. Under no circumstance shall officials or employees solicit gifts of any kind.

The term gift for the purposes of this Code means any gratuity, benefit, or any other thing of value which is accepted, paid, or given to a City employee, elected or appointed officials or by another on their behalf either directly or indirectly. Including, by illustration, but not limited to the following:

1. Preferential rate or terms on a debt, loan, goods, or services which rate is below the customary rate and is not either a government rate available to all other similarly situation government employees or officials or a rate which is available to similar situations members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin.
2. Transportation, lodging, or parking.
3. Food or beverage, other than that consumed at a single setting or event.
4. Membership dues.



City employees and officials shall not solicit or accept gifts, either directly or indirectly, from any person or entity doing business with or under regulation by the City or from the agent or lobbyist of such person or entity except on behalf of the City. As a general rule, solicitation or acceptance of gifts shall be presumed to constitute unauthorized compensation and it shall be presumed that the employee knew or should have known that such solicitation or acceptance was based on an understanding that his/her official actions or judgments would thereby be influenced.

### **C. Nepotism**

Hiring a relative is a special type of a conflict of interest that should be avoided. No public official or employee shall appoint, hire, advance or advocate the appointing, hiring or advancing of a member of his/her direct family or household member to a city position, as provided in the City of Reading Personnel Code.

### **D. Whistle Blowing**

Employees are expected to expose a violation of law of the Code of Ethics by any employee or business entity with which the City is doing business if such a violation creates a serious and specific danger to the public's health safety or welfare.

Employees are expected to expose improper use of public office or any other abuse or neglect on the part of a city employee or public official. An employee with knowledge of actions or activities of ethical concern shall report them to the Board of Ethics. The identity of the employee will be confidential information of the Board of Ethics until a full investigation is initiated.

Retaliation against an employee who reports any violation, abuse or other improper action is strictly prohibited by City policy. Any such action will be a violation of the Code of Ethics and subject to the disciplinary and corrective action ordered by the Board of Ethics.

### **E. Use of City Property and Personnel**

No personnel, equipment, supplies, facilities, vehicles, or any other property of the City may be used by employees or officials for private use. It is improper and may be unlawful for supervisors to use subordinates for their personal benefit. Reference is made to the City of Reading Personnel Code.

## **F. Political Activities.**

Reference is hereby made to Section 605 (a) and 707 of the Charter of the City of Reading and to Section 1.08 of the City of Reading Personnel Code. Said provisions are incorporated herein by reference and made a part hereof. The Board of Ethics shall have jurisdiction over any matter where the executive branch of the government or City Council of the City of Reading has failed to take appropriate action in enforcing these provisions.

## **SECTION 9. Penalties**

Violations of any provision of this Code of Ethics may result in one or more of the following actions as may be determined appropriate by a majority of the members of the Board of Ethics:

1. *A finding* that no action is warranted.
2. *Public reprimand*, in which case the disciplinary action shall be made a part of the official's or employee's personnel file and public disclosure shall be made of the action.
3. *Private reprimand*, in which case the disciplinary action shall be made a part of the official's or employee's personnel file and no public disclosure shall be made of the action.
4. *Public censure* of an elected official, whereby the Board of Ethics shall condemn the actions of said official in a public communication.
5. *Suspension of employment* for a stated period of time.
6. *Termination of employment*.
7. *Referral to the appropriate authorities for criminal prosecution*.
8. *Prosecution* by the Board of Ethics itself in a private complaint for a summary criminal offense, entitled Ethics Code Violation, a conviction of which shall result in a fine of up to \$300 and/or thirty (30) days' imprisonment.
9. *Ineligibility for holding any office or position* within the City for a period of up to five years, as set forth in Section 1202 (b) of the Charter of the City of Reading.
10. *Imposition of an administrative fine* to cover the costs and expenses of investigating any violation.
11. Any other additional penalties authorized by law.

## **SECTION 10. Advisory Opinions**

Upon the written request of any public official or city employee, or without such request should a majority of the Board deem it in the public interest, the Board of Ethics may render advisory opinions concerning matters of governmental ethics, shall consider questions as to ethical conduct, conflicts of interest and the application of ethical standards set forth in this ordinance, and shall issue an advisory opinion in writing as to any such question. The Board may in its discretion publish its advisory opinions with any deletions or modifications necessary to prevent disclosure of the identity of the person who is the subject of the opinion.

An advisory opinion may be used as a defense in any subsequent investigation or prosecution, provided that the official or employee who sought the opinion acted on it in good faith and only to the extent material facts were not omitted or misstated in the request for the opinion.

## **SECTION 11. Complaint and Investigation Procedure**

### **A. Who May File**

Any person may file a complaint about alleged ethics violations of the Reading Code of Ethics or the City Charter. In addition, the Board may initiate proceedings by its own action. A person signing a complaint shall:

1. Reasonably believe in the existence of facts upon which the claim is based.
2. Reasonably believe that the complaint may be valid under the ethics provisions of the Code of Ethics and the City Charter.

### **B. How to File**

Complaint forms are available upon request from the Board of Ethics. The complaint should state the name, job or office held by the alleged violator and a description of the facts that are alleged to constitute a violation. It must contain a notarized signature under penalty of law.

### **C. How to Determine if an Act is a Violation**

A violation is any activity that is restricted by the ethics provisions of the Code of Ethics and/or by the Charter of the City of Reading.

#### **D. Preliminary Inquiry**

If the Board has no jurisdiction in the matter, the complainant will be notified. Otherwise, the Board will conduct a preliminary inquiry within 60 days. If the inquiry fails to establish that City Ethics provisions have been violated, the inquiry will be terminated and the complainant and the person that is the subject of the inquiry will be notified.

#### **E. Continuing Inquiry**

If the Board determines that further inquiry is justified, the investigation will be continued. If, after 30 days, the Board finds that ethics provisions have *not* been violated, the inquiry will be terminated and complainant and the person that is the subject of the inquiry will be notified.

#### **F. Full Investigation**

If preliminary investigation by the Board establish that Code of Ethics and/or City Charter provisions have been violated, a full investigation will be initiated. The subject of the investigation will be notified and provided with a general statement of the alleged violation(s) and of the identity of the complainant. The Board will notify the complainant within three (3) business days of the commencement of the investigation. Until the investigation is terminated, the Board will advise both parties of the status of the investigation at least every ninety (90) days. Within one hundred and eighty (180) days, the Board must either terminate the investigation or issue a findings report to the subject.

#### **G. Findings Report, Evidentiary Hearing and Board Decision**

The findings report sets forth the pertinent findings of fact. The subject, within thirty (30) days after the report is issued, has the right to respond to the report and request an evidentiary hearing, unless an extension is obtained from the Board. The evidentiary hearing must be instituted within forty-five (45) days after the filing of the subject's response and request for hearing. The subject will have access to any evidence intended to be used at the hearing. The hearing will be closed to the public unless the subject requests an open hearing.

#### **H. Open Hearing**

Following the hearing, the Board will determine whether violations of the Code of Ethics and/or Reading City Charter have been proven and shall issue a final order. The subject has a right to file a petition for reconsideration of the order.

## **I. Effect of Order**

In addition to deciding the case before it, the Board may take one or more of the following actions if appropriate. The Board may:

1. Order the respondent to make restitution or impose a monetary penalty in accordance with the actions of the Ethics Board.
2. Order the respondent to cease and desist from engaging in a particular activity deemed to be in conflict with the action of the Ethics Board.
3. Order the respondent to take specified action to bring him or her in compliance with the Ethics Board action.
4. Refer the matter for review or with specific recommendation for action to law enforcement, regulatory or other authorities with jurisdiction of the matters.
5. Institute appropriate civil or equitable action to enforce the order and decision of the Board.
6. Institute appropriate legal action seeking restitution.
7. Recommend to City Council the forfeiture of office or position with the City and be ineligible to hold any City office or position for five (5) years following such decision.

## **J. Protection of Complainant**

No official or employee may be penalized for a good faith filing of a complaint with the Ethics Board, or providing information or testifying in any Board proceeding. No persona may be discharged, suffer change in his/her official rank, grade or compensation, be denied a promotion, or be threatened as a result of any of the above.

## **SECTION 12. Confidentiality of Board Information**

All Board proceedings and records relating to an investigation are confidential until a final determination is made by the Board, except as may be required by due process. The final order is a public record. All other file material remains confidential. The Board, however, may release the identity of a complainant if it has determined that there has been a wrongful use of the Code of Ethics, as set forth in Section 10 herein.

### **SECTION 13. Wrongful Use of Board of Ethics**

The purpose of the Board of Ethics is to endeavor to maintain a high standard of ethical behavior by City employees and officials. This will be most effective when City employees, officials and citizens work together to set and maintain high ethical standards. Complaints directed to the Board must be based on fact and have the intent to improve the ethical climate of the City. Individuals directing unfounded, frivolous or false complaints to the Board may be subject to penalties including but not limited to criminal prosecution for perjury. Other penalties may be imposed by the Board of Ethics for the wrongful use of the Code of Ethics.

Wrongful use of the Code of Ethics is defined as:

1. Filing a frivolous complaint. A complaint is frivolous if it is filed in a grossly negligent manner without a basis in law or fact or without probable cause and was made for a purpose other than reporting a violation of this Code.

A person has probable cause if he/she reasonably believes in the existence of the facts upon which the claim is based and either reasonably believes that under those facts the complaint is valid under this Code or acts upon the advice of counsel sought in good faith and given after full disclosure of all relevant facts within his/her knowledge and information.

2. Publicly disclosing or causing to be disclosed that a complaint against a person has been filed with the Board of Ethics.

Revised May 2000

/mak